

US Army Corps of Engineers.

Philadelphia District Wanamaker Building 100 Penn Square East Philadelphia, PA 19107-3390 ATTN: CENAP-OP-R

Public Notice

Public Notice No. Date
CENAP-OP-R- 2008-0505-46 (IP)

AUG 28 2008

Application No.

File No.

In Reply Refer to:
REGULATORY BRANCH

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT:

West Highland Holdings, L.P.

AGENT:

Mr. Daniel J. Martin

Marathon Engineering and Environmental Services, Inc.

510 Heron Drive, Suite 100 Swedesboro, New Jersey 08085

WATERWAY:

Delaware River

LOCATION:

933 Penn Street, Philadelphia, Pennsylvania

ACTIVITY: To partially demolish and re-construct the existing Pier 40N structure in order to construct a residential high-rise structure on top of the new pier, a 43-story building containing 264 units and a parking area for 425 vehicles. Adjacent to but separate from the Activity, the applicant will establish a public recreational park on uplands with access to the Delaware River waterfront.

Under the current configuration, the western portion of the pier is of solid fill consisting of 18,775 square feet and the eastern portion of the pier is a concrete slab over wooden piles consisting of 5,916 square feet (total of 0.56 acres). The bulkhead consists of 17,737 square feet (0.40 acres) of fill. The entire existing pier/bulkhead consists of 0.97 acres (405 feet long waterward of the existing bulkhead by 70 feet in width). It is a concrete pier over fill that was constructed prior to 1916. Pier 40N was historically used as the Baltimore and Ohio Railroad (B&O. R.R.) Freight House with associated railroad tracks prior to 1916 to approximately 1976. As recently as 1999, a restaurant on a ferry (S.S. Philadelphia) was moored adjacent to the pier. The pier was utilized for parking for the patrons of the restaurant.

The applicant proposes to construct a new superstructure above the existing fill pier and construct a pier extension 45.2 feet further east of the existing pier resulting in a final structure extending 450 feet waterward of the bulkhead (mean high water line) and would be raised 1.57

feet above the plane of the mean high water line. Additionally, the entire pier would be widened by 70 feet. The proposed pier would be supported on 949 new concrete-filled steel pilings resulting in the ultimate filling of 1,012 square feet of waterway below the high tide line. Access to the residential high-rise would be provided via a bridge extending approximately 133 feet waterward of the mean high water line and would cover 6,401 square feet of open waters (currently fill). Associated with the bridge is the reconstruction of the bulkhead line located immediately north and south of Pier 40N. The northern bulkhead line will be expanded by 367 square feet and the southern bulkhead line will be reduced by 951 square feet (net decrease of 584 square feet of fill).

It should be noted that the elevation of the bottom of the waterway is a minimum of 3 feet from mean low water. All such structures would also include all required utilities such as stormwater, water, sewage, and electrical facilities. The decking of the structure would also include a recreational perimeter pedestrian walkway around all sides of the building to the end of the pier for public access, and associated parking.

It should be noted that the original Pier 40 structure and bulkhead resulted in the loss of a total of 36,518 square feet (0.83 acre) of open waters from placement of historic solid fill and open water shading of an additional 5,916 square feet (0.13 acres). To compensate for aquatic resource impacts associated with the proposed project, the applicant has proposed to remove 0.44 acres (18,775 SF square feet of fill materials associated with the pier and 584 square feet associated with the bulkhead) of fill (2,535,588 cubic feet or 93,910 cubic yards) from the Delaware River from the bulkhead to 300 feet from the mean high waterline at the subject site. The final pier and bridge structures would thus disturb 43,583 square feet of open waters through pile placement, shading, and removal of fill (including restoration of 4,977 square feet of unshaded open waters (currently fill near the proposed bridge) and 13,798 square feet of open but shaded waters (removal of fill)). The project would permanently shade an additional 18,912 square feet (including bridge) or 12,511 square feet (excluding bridge) of the Delaware River. In consideration of the fill removal, bridge/pier construction, and above-mentioned bulkhead construction and removal, a total of approximately 5,561 (reduction of bulkhead and removal of fill creating open water) square feet of restoration of un-disturbed and un-shaded open waters would result from the work proposed herein.

The applicant has stated that, for site de-watering, a 2-foot thick sheet pile cofferdam would be constructed around the portion of pier where fill materials are to be removed. Water would then be pumped to sediment filtration bags and would be then allowed to drain back to the river. No other regulated temporary structures or fill discharges would be required for construction of the proposed project. The applicant has also stated that no dredging would be required for completion of the project. Additionally, the applicant has stated that the removed fill materials would be disposed in upland areas and the S.S. Philadelphia would be disassembled from the adjacent pier. The applicant intends to send the scrap metal off-site for disposal at a recycling facility.

The proposed 6,401 square foot bridge would be regulated by the U.S. Coast Guard.

PURPOSE: The applicant's stated purposes for the proposed work are as follows:

- A) Pier 40N re-construction to provide residential units in the central portion of the city as part of the continuum of the planned urban revitalization of the city's waterfront district.
- B) Recreational walkway to provide public access to the city's waterfront including year round passive (walkways) around all sides of the building to the end of the pier and active recreational (fishing) opportunities.

A preliminary review of this application indicates that the proposed work may impact the Short-nosed Sturgeon (Acipenser brevirostrum) or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this Proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work should be submitted, in writing, within 30 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect Essential Fish Habitat (EFH). Based upon

the "Guide to Essential Fish Habitat Designations in the Northeastern United States. Volume IV: New Jersey and Delaware", dated March 1999, this office has determined that the portion of the subject waterway does not constitute essential fish habitat.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

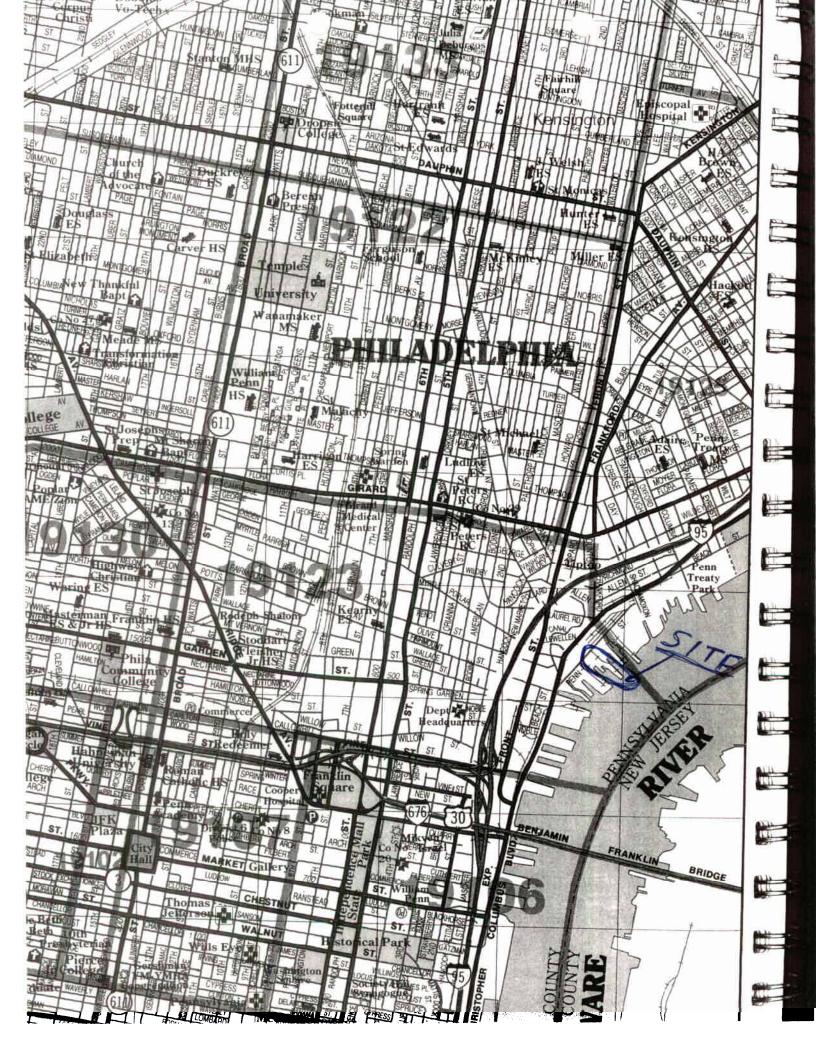
In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

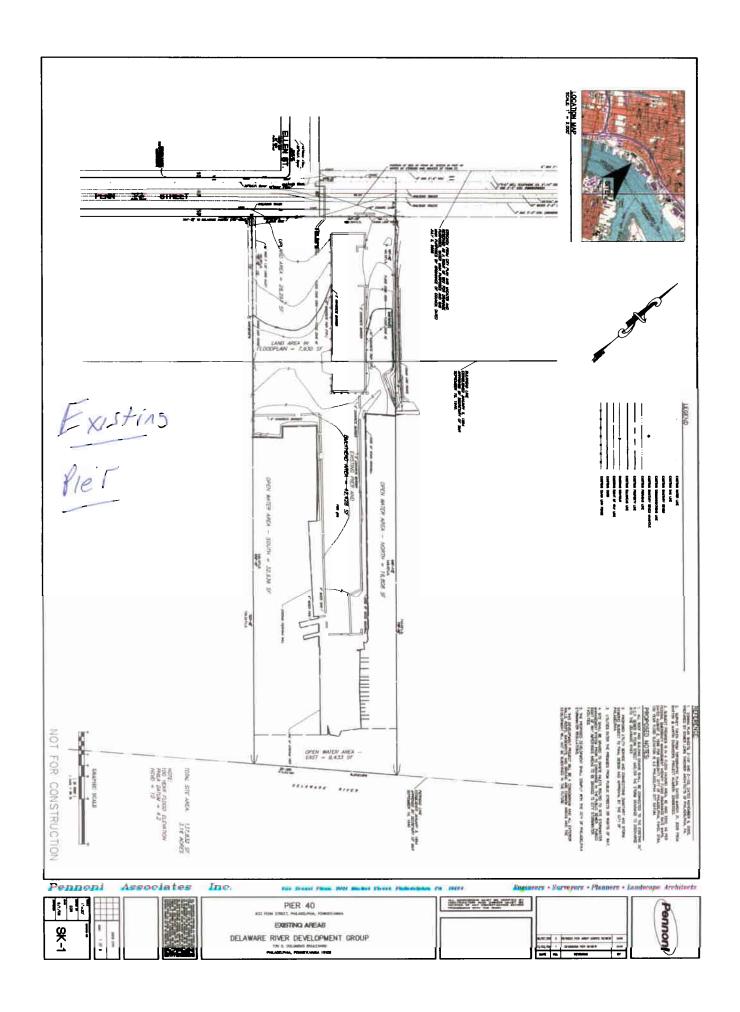
The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act. Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

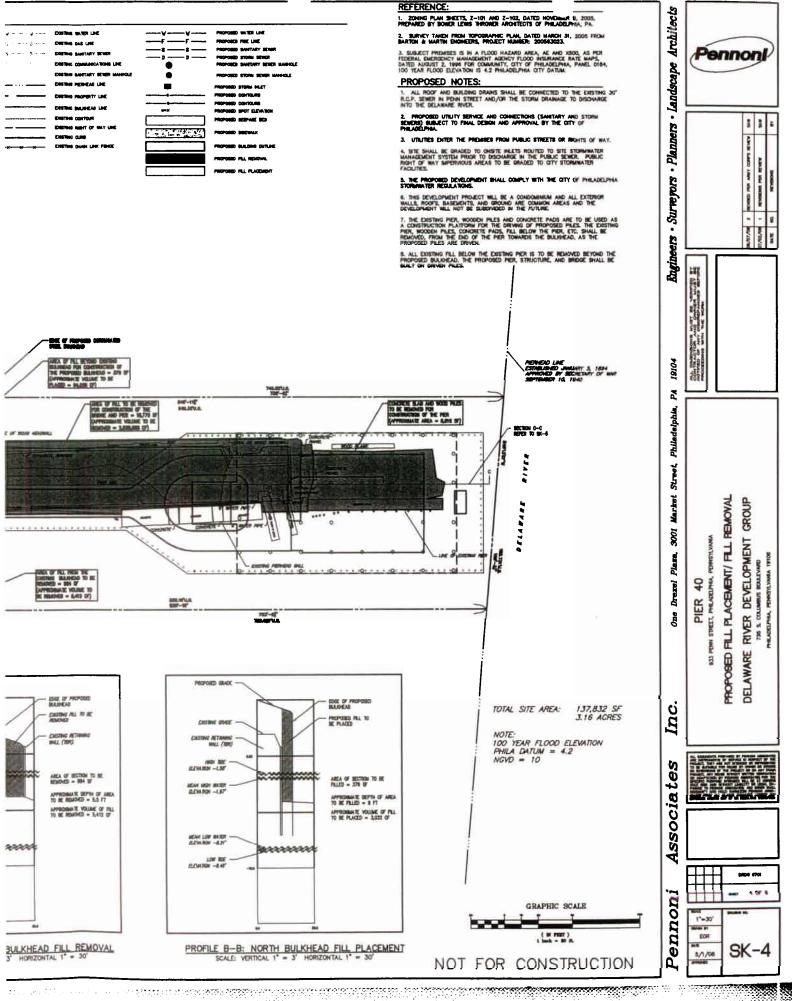
Additional information concerning this permit application may be obtained by calling at 215-656-6731 or writing this office at the above address.

Frank J. Cianfrani

Chief, Regulatory Branch

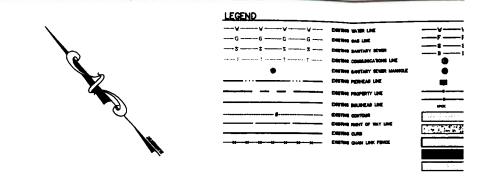




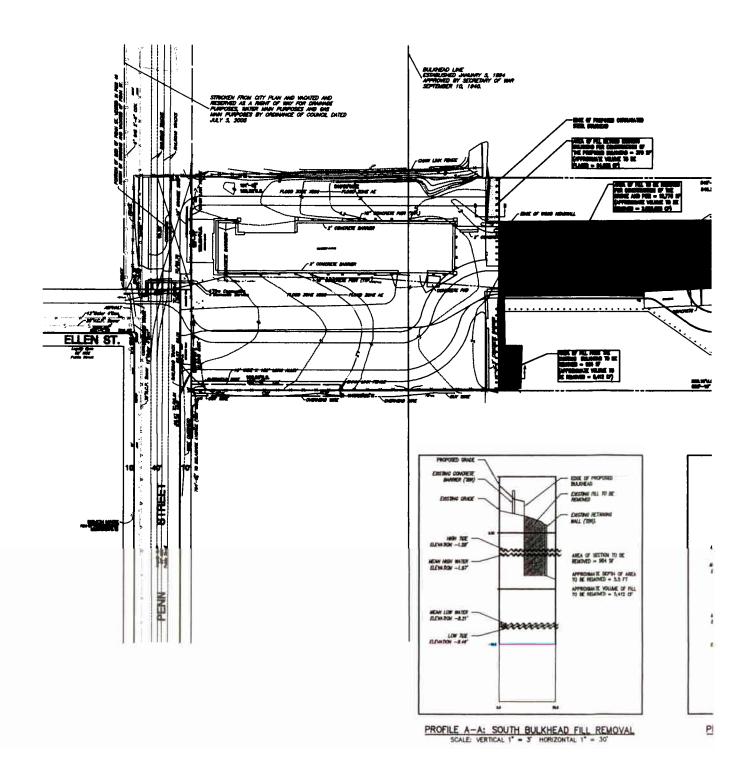


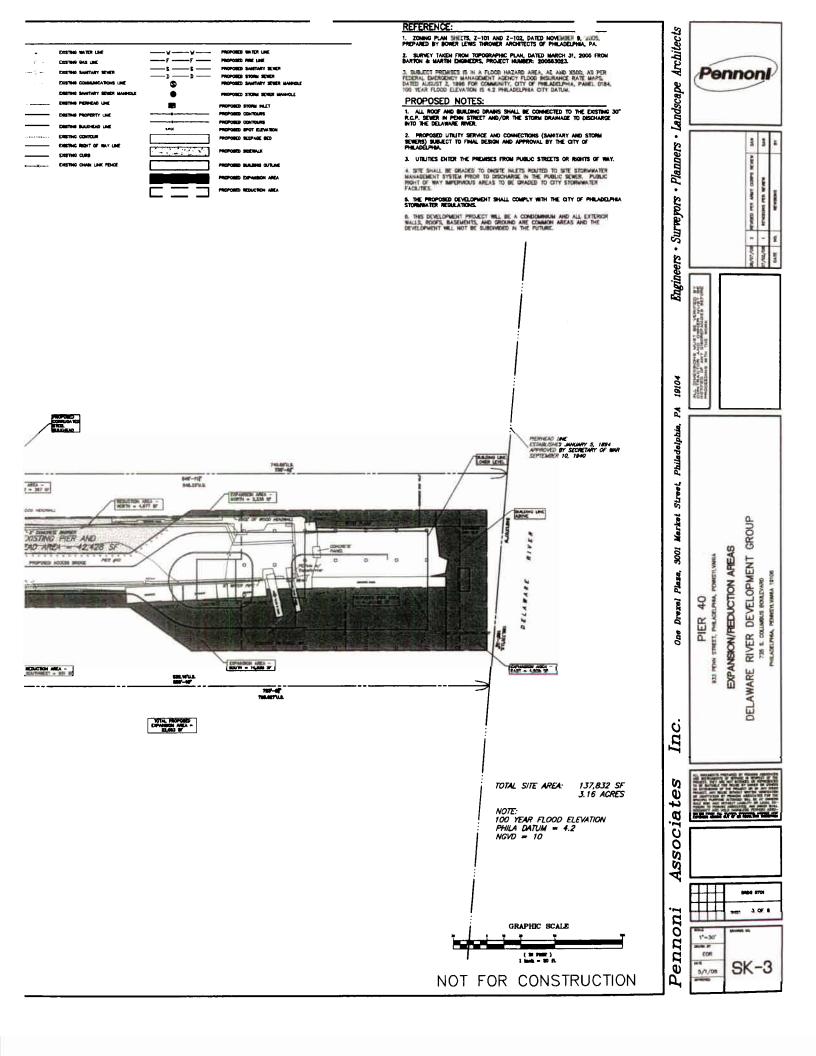


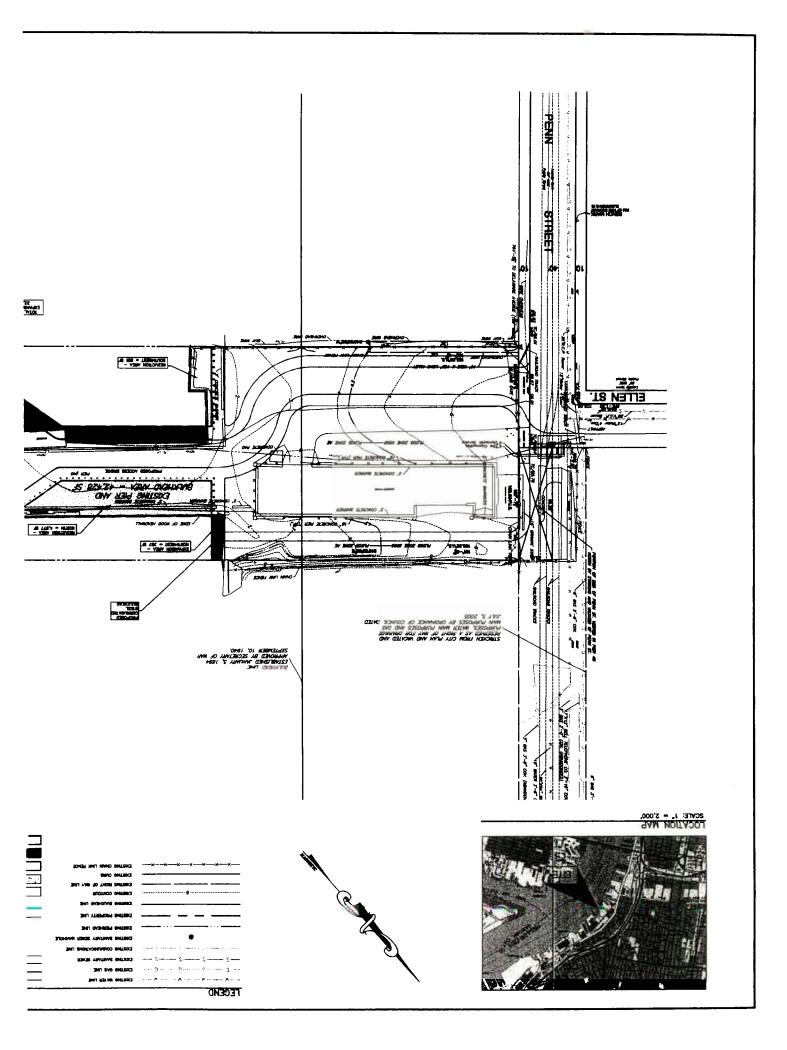


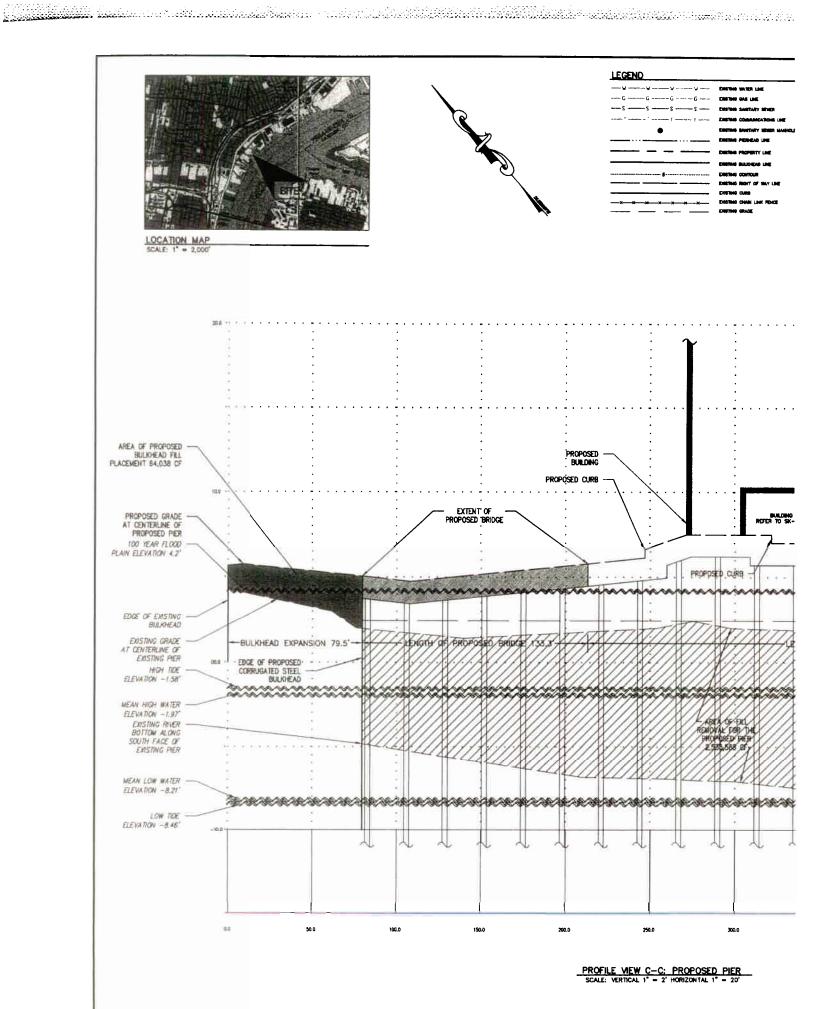


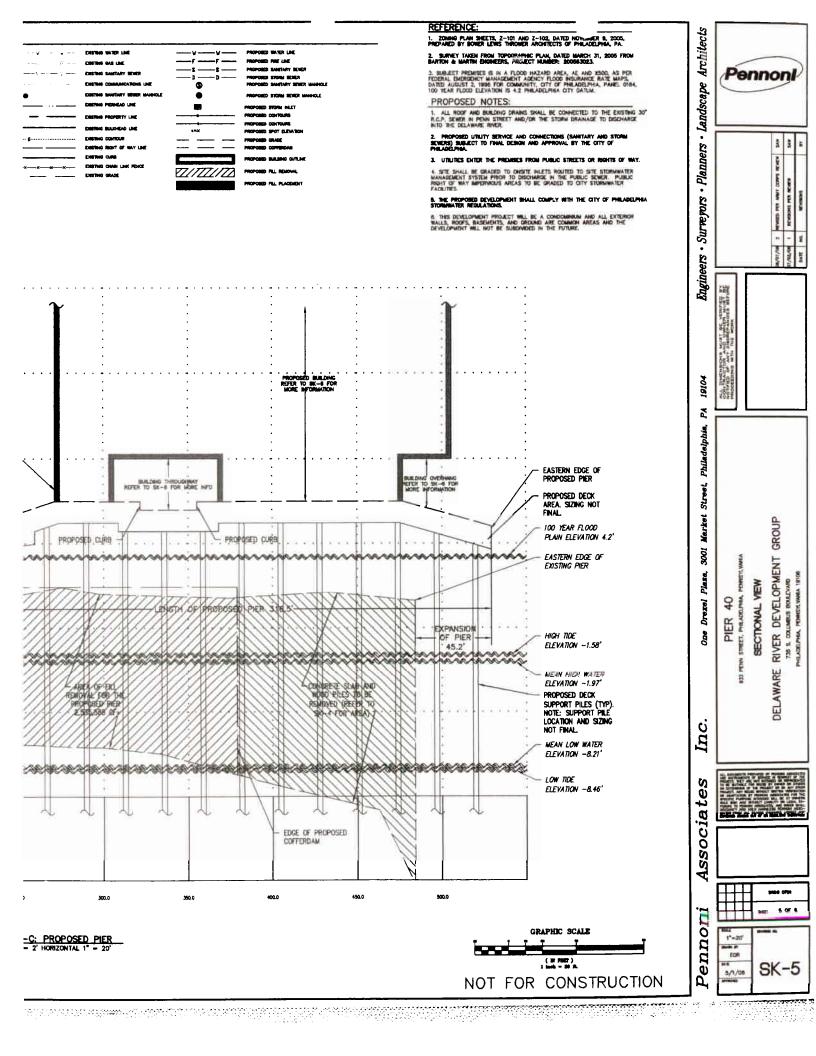
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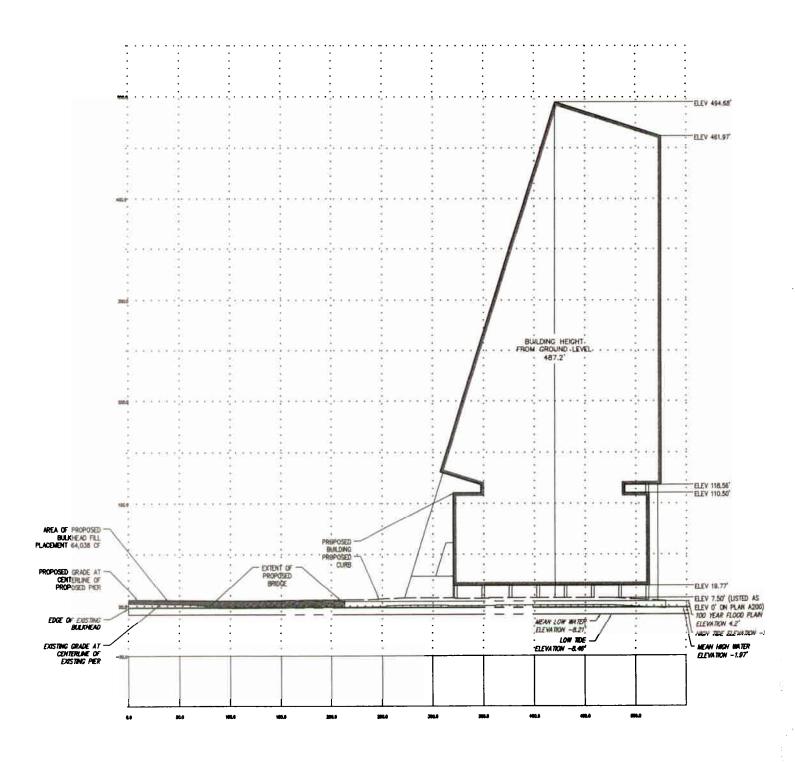




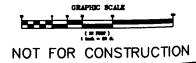








PROFILE VIEW D-D: PROPOSED BUILDING SCALE: VERTICAL 1" = 30" HORIZONTAL 1" = 30"



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS - PHILADELPHIA
CORPS OF ENGINEERS

WANAMAKER BUILDING 100 PENN SQUARE EAST PHILADELPHIA, PA 19107-3390

ATTN: REGULATORY BRANCH